UNITED
NATIONS

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Security Council

PROVISIONAL

S/PV.3309
10 November 1993

ENGLISH

PROVISIONAL VERBATIM RECORD OF THE THREE THOUSAND
THREE HUNDRED AND NINTH MEETING

Held at Headquarters, New York,
on Wednesday, 10 November 1993, at 10 a.m.

President:	Mr. JESUS	(Cape Verde)
later:	Mr. LI Zhaoxing	(China)
Members:	Brazil	Mr. SARDENBERG
	Cape Verde	Mr. BARBOSA
	Djibouti	Mr. OLHAYE
	France	Mr. MERIMEE
	Hungary	Mr. ERDÖS
	Japan	Mr. MARUYAMA
	Morocco	Mr. SNOUSSI
	New Zealand	Mr. KEATING
	Pakistan	Mr. MARKER
	Russian Federation	Mr. VORONTSOV
	Spain	Mr. YAÑEZ BARNUEVO
	United Kingdom of Great Britain and Northern Ireland	Sir David HANNAY
	United States of America	Mr. WALKER
	Venezuela	Mr. TAYLHARDAT

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The meeting was called to order at 10.30 a.m.

ADOPTION OF THE AGENDA

The agenda was adopted.

ELECTION OF FIVE MEMBERS OF THE INTERNATIONAL COURT OF JUSTICE (S/26489, S/26490/Rev.1 and S/26497 and Corr.1)

The PRESIDENT: At this stage, I wish to address a question of procedure.

For reasons known to all the members of the Security Council, I have considered the possibility of applying rule 20 of the provisional rules of procedure of the Council. This rule provides that

> "Whenever the President of the Security Council deems that for the proper fulfilment of the responsibilities of the presidency he should not preside over the Council during the consideration of a particular question with which the member he represents is directly connected, he shall indicate his decision to the Council".

(The President)

The Council will note that this provision places this matter entirely within the discretion of the President. After fully considering the exceptional circumstances of this case, I have come to the conclusion that I should act within the discretion which the rule provides, and, accordingly, I report my decision to the Council not to preside over the Council during its proceedings in connection with the election of five members of the International Court of Justice. Consequently, in accordance with rule 20 of the Council's provisional rules of procedure, I invite the President for the month of December 1993, China, to take the Presidential Chair for the purpose of the consideration of the question on our agenda.

Mr. Li Zhaoxing (China) took the Presidential Chair.

The PRESIDENT (interpretation from Chinese): I am pleased to have the special honour of presiding over the Council's proceedings today in connection with the election of five members of the International Court of Justice. I thank members for the trust they have placed in me, and I hope that, with their support and understanding, today's election will proceed smoothly.

The Security Council will now proceed to the election of five members of the International Court of Justice, in accordance with Article 13 of the Statute of the International Court of Justice, to fill the five seats which will become vacant on 5 February 1994 on the expiry of the terms of office of the following five Judges: Mr. Shigeru Oda (Japan), Mr. Ni Zhengyu (China), Mr. Jens Evensen (Norway), Mr. Bola A. Ajibola (Nigeria) and Mr. Géza Herczegh (Hungary).

The updated list of candidates nominated by national groups is contained in document S/26490/Rev.1, which takes into account all the information concerning notifications received by the Secretary-General of nominations by national groups, as well as notifications of the withdrawal of candidates.

Documents S/26497 and S/26497/Corr.1 contain the curricula vitae of the candidates.

The Security Council also has before it a memorandum by the Secretary-General, contained in document S/26489, describing the present composition of

(The President)

the Court and setting out the procedure to be followed in the conduct of the election.

I should like to remind the Council that, under Article 10, paragraph 1, of the Statute of the International Court of Justice,

> "Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected."

The required majority in the Security Council is therefore eight votes.

If more than five candidates obtain the required majority, according to the procedure which has been followed in the past and which is set forth in paragraph 14 of the Secretary-General's memorandum, a new vote will be held on all the candidates.

This rule will also apply to any subsequent ballots, if the number of candidates obtaining the absolute majority is greater than the number of vacancies remaining. If, on the other hand, in the first ballot the number of candidates obtaining the absolute majority is less than five, the Council will proceed to a second ballot on the remaining vacancies, and balloting will continue in the same manner until five of the candidates have obtained the required majority of votes.

The voting will be held by secret ballot. When we proceed to the vote, members of the Council will receive a ballot containing the names of all the candidates. No withdrawal will be accepted once the ballot papers have been distributed. However, it would be possible to withdraw between ballots. Members of the Council will be requested to place an "X" in the boxes next to the names of the candidates for whom they wish to vote. Only those candidates whose names appear on the ballot are eligible for election.

I should like to remind members of paragraph 11 of the Secretary-General's memorandum, which specifies that

> "Each elector may vote for not more than five candidates on the first ballot". (S/26489, para. 11)

Any ballot paper containing votes for more than five names will be considered invalid. When five candidates have obtained the required majority of

(The President)

votes, I shall communicate the result to the President of the General Assembly, and I shall request the Council to remain in session pending the receipt from the President of the General Assembly of the result of the voting in the Assembly.

The Council will now proceed to draw lots to select the two delegations to serve as tellers.

* * *

The names of the delegations of Cape Verde and France have been drawn. I request each of those delegations to appoint one member to serve as teller.

At the invitation of the President, Mr. Matos (Cape Verde) and Mr. Legal (France) acted as tellers.

The PRESIDENT (interpretation from Chinese): May I take it that the Council is now ready to proceed with the election of five members of the International Court of Justice?

It is so decided.

(The President)

I request the Conference Officer to distribute the ballot papers.

Members of the Council should place an "X" in the boxes next to the names of the five candidates for whom they wish to vote.

* * *

I take it that all the members of the Council have now voted, and I ask the Conference Officer to collect the ballot papers.

* * *

All the ballot papers have been collected. I should like to remind the Council that, as we agreed during our consultations, the ballots will not be counted until it has been verified that the ballot papers in the General Assembly have been collected. The Council will remain in session pending the receipt of that information.

* * *

(The President)

I have now been informed that the ballot papers have been collected in the General Assembly.

The counting of the ballots in the Security Council will now begin. The tellers will now count the ballots.

As agreed in our consultations, there will be two independent countings of the ballot: one by each teller.

* * *

The result of the voting is as follows:

Number of ballot papers: 15

Number of invalid ballots: 0

Number of valid ballots: 15

Required majority: 8

Number of votes obtained:

Mr. Carl-August Fleischhauer (Germany)..15

Mr. Shigeru Oda (Japan).....15

Mr. Jiuyong Shi (China).....15

Mr. Géza Herczegh (Hungary).....13

Mr. José Luis Jesus (Cape Verde).....9

Mr. Abdul G. Koroma (Sierra Leone).....3

Mr. Samuel K. B. Asante (Ghana).....2

Mr. Alexander Yankov (Bulgaria).....2

Mr. Rodger M. A. Chongwe (Zambia).....1

The PRESIDENT (interpretation from Chinese): The following five candidates have received the required majority of votes in the Security Council: Mr. Carl-August Fleischhauer, Mr. Shigeru Oda, Mr. Jiuyong Shi, Mr. Géza Herczegh and Mr. José Luis Jesus.

I shall communicate the result of the vote to the President of the General Assembly in writing.

I request the Council to remain in session while we wait for the President of the General Assembly to inform the Council of the result of the voting in the Assembly.

The meeting was suspended at 1.40 p.m. and resumed at 4.15 p.m.

The PRESIDENT (interpretation from Chinese): Members of the Council will recall that we are still awaiting a communication from the President of the General Assembly concerning the results of the balloting in the Assembly. I request the Council to remain in session pending the receipt of that communication.

* * *

(The President)

I should like to inform the members of the Council that I have just received from the President of the General Assembly the following letter:

"I have the honour to inform to you that, at the 51st plenary meeting of the General Assembly held today for the purpose of electing five members of the International Court of Justice, the following five candidates obtained an absolute majority of votes in the General Assembly: Carl-August Fleischhauer, Géza Herczegh, Abdul G. Koroma, Shigeru Oda and Shi Jiuyong."

As both the Security Council and the General Assembly have agreed on the following candidates, the distinguished jurists Mr. Fleischhauer, Mr. Herczegh, Mr. Oda and Mr. Shi have been elected as members of the International Court of Justice for a term of office of nine years, beginning on 6 February 1994.

I should like to congratulate them and wish them every success in the high office to which they have been elected.

As a result of the voting which has taken place in the Security Council and in the General Assembly, only four members of the Court have been duly elected.

In accordance with Article 11 of the Statute of the Court, the Council will now proceed to hold a second meeting to elect one candidate by further balloting for the seat remaining to be filled. Accordingly, I shall adjourn this meeting of the Security Council, and I shall immediately call to order the second meeting of the Security Council to elect one candidate by further ballot.

The meeting rose at 5.30 p.m.